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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,533	02/22/2002	Linda S. Steinberg	246400.0159	7546

21269 7590 07/06/2004

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EXAMINER

CHRISTMAN, KATHLEEN M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3713

Notice of Non-Responsive Amendment

1. The amendment filed on 04/19/2004 cancelled claims 1-11 and added new claims 12-28. The new claims are drawn to a separate and distinct invention from original claims 1-11. Although both sets of claims recite a method of designing an assessment, the methodology of creating the assessments distinctly different. Particularly, previous claims 1-11 were directed to the creation of an assessment by separating the design process into a plurality of phases. Newly added claims 12-28 do not recite this methodology in any clear manner. The invention of claims 1-11 is considered to be elected by original presentation. As such the amendment cancelled all claims drawn to the elected invention and presents only claims drawn to a non-elected invention and is considered to be non-responsive (MPEP § 821.03).

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment.

EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

2. Further, for purposes of expediting prosecution, the examiner notes that the information disclosure statement filed 06/16/2004 was filed after the mailing of a first action on the merits. 37 CFR 1.97(c) states:

(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

- (1) The statement specified in paragraph (e) of this section; or
- (2) The fee set forth in § 1.17(p)

Neither of these requirements accompanied the information disclosure statement.

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3. Lastly, although it is not required under 37 CFR 1.121 that the applicant specifically show support for new claim limitations in the specification as originally filed, applicant is requested to do so for any substantial amendments to the claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen M Christman whose telephone number is (703) 308-6374. The examiner can normally be reached on M-F 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kathleen M. Christman


JESSICA HARRISON
PRIMARY EXAMINER